

**REMARKS**

Applicant recognizes with appreciation that the Examiner conducted a telephone interview with the Applicant's representative on May 2, 2007. During the interview, the Applicant's representative pointed out the difference between the present invention and the Joulin reference (GB 1,568,220) and Kawaguchi (US 4,640,081). Especially, the Applicant's representative pointed out that Joulin reference (GB 1,568,220) does not disclose "the bell" as required in Claims 1, 9 and 17. The Examiner indicated that the rejection based on this reference would be reconsidered. Regarding the Kawaguchi reference (U.S. 4,740,081), the Examiner interprets the vacuum as "modified atmosphere." Applicant's representative points out that, according to a person of ordinary skill in the art, vacuum packing and packing in modified atmosphere are different, and the air inside the pack is replaced with suitable inert gases during modified atmosphere packing, as explained on page 1, lines 9 – 18 of the Specification. Applicant's representative further points out that Kawaguchi reference does not disclose "means for the input of modified atmosphere into the cell" as required by Claims 9 and 17. The Examiner indicated that the rejections would be reconsidered if this argument were submitted in the official response.

In this Amendment, Applicant has amended Claims 1, 9 and 17 to overcome the rejection and specify different embodiments of the present invention. In addition, Claims 4 and 7 have been amended to proper dependent form. It is respectfully submitted that no new matter has been introduced by the amended claims. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

**REJECTIONS UNDER 35 U.S.C. § 102:**

Claims 1, 9 and 17 have been rejected under 35 U.S.C. § 102 (b) as allegedly being anticipated by Gerard Joulin et al. (GB 1,568,220), hereinafter Joulin. Claims 1 and

3 – 17 have been rejected under 35 U.S.C. § 102 (b) as allegedly being anticipated by Kawaguchi et al. (US 4,640,081), hereinafter Kawaguchi.

Applicant traverses the rejection and respectfully submits that the present-claimed invention is not anticipated by the cited references. More specifically, among other differences, Joulin does not disclose “**the bell being supported by movement means for the bell's synchronous movement along the transport section** of the conveyor near the entrance of the machine **to enclose** in said section one of the food products **under the bell** and submit said one of the food products to said vacuum.” (emphasis added). Kawaguchi does not disclose “**a machine for continuous packing in a modified atmosphere** of the food products”, “means are present that temporarily submit the food products continuously fed by the conveyor to vacuum **before the food products are packed in modified atmosphere in the machine**” (Claims 1, 9 and 17), “means for the input of modified atmosphere into the bell” (Claim 9), “a pump for each bell” (Claim 15), and “a bell connected to **means** for the suction of air from inside the bell and **for the input of modified atmosphere**” (Claim 17). In addition, Claims 1, 9 and 17 have been amended to define that “a suitable inert gas constitutes the modified atmosphere”. Therefore, it is clear that a vacuum is not a modified atmosphere as understand by a person of ordinary skill in the art. Furthermore, Claims 1, 9 and 17 include the limitation that “on the transport section of the conveyor, the food products, after being subject to vacuum in the bell, are subject to an outside atmosphere at a normal atmosphere before the food products are packed in the modified atmosphere in the machine”. This feature is not disclosed or taught in prior art. Neither Joulin nor Kawaguchi discloses nor suggests the transport section, where the food products are subject to normal atmosphere.

Especially, for Joulin reference, Applicant respectfully submits that the Examiner’s interpretation of pipe 13 as the bell defined in the pending claims is incorrect. At first, in the packaging plant as claimed in Claims 1 and 17, bells are arranged before the entrance of the packing machine, i.e. before entering that part of the plant where the products are wrapped in the packaging film and the package is then closed after the product has been subjected to modified atmosphere. The section of Joulin’s plant, which

is referred to by the Examiner as the conveyor belt 12 along which the products are moved while resting wrapped by the tubular sheath 4 of packaging film 2 and both air suction and packaging film, take place there, in the same section of the plant. Therefore, said section of the Joulin's plant, which is referred to by the Examiner is nothing but the packing machine. However, the claimed invention defines that, before the packing machine, a bell is provided to submit the products to vacuum (and, in another embodiment, also to a first step of modified atmosphere).

Applicant respectfully submits that the Examiner has not explain where is the separation, in Joulin reference, that is a zone where air suction take place and a zone where modified atmosphere is inserted to carry out the modified atmosphere packaging of the product. In other words, it is not clear, in Joulin and Office Action, which is the "packing machine" where modified atmosphere is inserted and which is the "transport section before entrance of the packing machine", where the "bell" is operating. In fact, Joulin clearly explains that the pipe 13 sucks air from the tubular sheath 4 and injects inert gas into the tubular sheath 4 with the products being present in the same and whole length of the conveyor belt 12. In other words, in Joulin, air suction and inert gas injection are only temporally, but not spatially separated.

In addition, Applicant respectfully submits that, in the section of Joulin's plant, which is referred to by the Examiner, the products are merely wrapped by the tubular sheath 4 of packaging film 2 while they are fed to the sealing device 5 by conveyor belt 12. As indicated above, there is no structure (such as a bell) which encloses the product itself before it enters the packing machine, i.e. the part of the plant where the product is wrapped in the packaging film and the package is then seallingly closed. Since no cell is actually disclosed by Joulin, Claims 1, 9 and 17 cannot be considered as anticipated by Joulin.

Moreover, Applicant respectfully submits that the present invention is not anticipated by Kawaguchi, because Kawaguchi discloses a vacuum packaging apparatus, wherein the products are not subject to any modified atmosphere. In fact, according to

Kawaguchi, the products are merely subjected to air suction and then the packages are sealed while they are contained in bells 15. Therefore, Claims 1, 9 and 17 as well as their dependent claims are not anticipated by Kawaguchi.

On the other hand, even if a person of ordinary skill in the art tried to combine the use of bells taught by Kawaguchi with Joulin's plant by placing the air suction bells 15 of Kawaguchi upstream of the conveyor belt 12 of Joulin where inert gas is injected into the packaging film tubular sheet enclosing the products, the person would not be able to obtain a plant according to the innovative concept of the claimed invention. In fact, according to Kawaguchi, the product packages leaving the bells 15 have been completely sealed. Therefore, should one make them entering the section of the Joulin's plant where pipe 13 is present, the inert gas provided by pipe 13 could not be introduced into the closed packages.

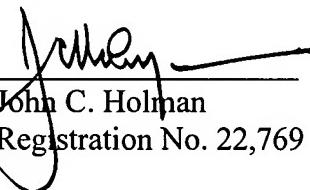
Therefore, the pending claims are not anticipated by Joulin or Kawaguchi and the rejection under 35 U.S.C. § 102 (b) has been overcome. Accordingly, withdrawal of the rejection under 35 U.S.C. § 102 (b) is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

JACOBSON HOLMAN PLLC

Date: May 24, 2007  
(202) 638-6666  
400 Seventh Street, N.W.  
Washington, D.C. 20004  
Atty. Dkt. No.: P70292US0

By   
John C. Holman  
Registration No. 22,769